

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JEROME KELLEY

Plaintiff,

v.

**CRACKER BARREL OLD
COUNTRY STORE, INC.**

Defendant.

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Civil Case No. 2:07-CV-820-MEF

DEFENDANT’S MOTION TO COMPEL DISCOVERY

Pursuant to Federal Rule of Civil Procedure 37 and Local Rule 37.1, Defendant Cracker Barrel Old Country Store, Inc. (“Defendant” or “Cracker Barrel”), by and through its undersigned counsel, hereby moves this Honorable Court for an Order compelling Plaintiff Jerome Kelley (“Plaintiff”) to respond to the following discovery requests, as served upon him on November 1, 2007, within ten (10) days: (1) Defendant Cracker Barrel Old Country Store, Inc.’s First Set of Interrogatories (“Defendant’s First Interrogatories”); (2) Defendant Cracker Barrel Old Country Store, Inc.’s First Requests for Production of Documents (“Defendant’s First Requests to Produce”); and (3) Defendant Cracker Barrel Old

Country Store, Inc.'s First Set of Requests for Admissions ("Defendant's First Requests to Admit").

Defendant further moves that all of Plaintiff's objections to Defendant's First Interrogatories and Defendant's First Requests to Produce be deemed waived; and that all of Defendant's First Requests to Admit be deemed admitted.

Defendant also moves that Plaintiff be ordered to pay Defendant for the reasonable expenses incurred in making this motion, including attorney's fees.

A supporting Memorandum is being filed herewith and is specifically incorporated by reference.

Respectfully submitted this 17th day of December, 2007.

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CALDWELL & BERKOWITZ, PC**

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Cracker Barrel Old Country Store, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing **DEFENDANT'S MOTION TO COMPEL DISCOVERY** with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to the following CM/ECF counsel of record:

Keith Anderson Nelms, Esq.
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This 17th day of December, 2007.

/s/ Stephen P. Pocalyko
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